

Before the
Federal Communications Commission
Washington, D.C. 20554

_____)	
In the Matter of)	
)	
Petition for Reconsideration of a)	
Decision by the Telecommunications)	
Access Policy Division, Wireline)	
Competition Bureau for)	
)	
Ada School District)	File Nos. SLD-963751 et al.
Ada, Ohio et al.)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
_____)	

**IN SUPPORT OF THE STATE E-RATE COORDINATORS' ALLIANCE'S
PETITION FOR RECONSIDERATION, PETITION FOR OMNIBUS
WAIVER OF INVOICE DEADLINE REGULATION, AND PETITION
FOR RULEMAKING TO REVISE INVOICE DEADLINE REGULATION**

The E-Rate Management Professionals Association ("E-MPA[®]") writes in support of a [petition](#) filed May 12, 2016, by the State E-rate Coordinators' Alliance ("SECA"). SECA's petition is, in the narrow sense, related to a decision ([DA 16-448](#)) released on April 25, 2016, by the Wireline Competition Bureau ("WCB") denying over 120 requests for waiver of the invoice deadline for FY 2014 recurring services. More broadly, SECA's petition requests a rulemaking to revise the

Commission's invoice deadline regulations incorporated in the FCC's first E-rate Modernization Order ([FCC 14-99](#)).

The WCB's denial in this case represents the broadest and strictest enforcement of an E-rate regulation yet seen. It stands in stark contrast to other FCC actions taken in recent years designed to make E-rate easier and to ensure that much-needed E-rate funding reaches the hands of this country's schools and libraries.

In addition to reversing the denials explicit in the WCB's decision, SECA's petition affords the Commission an opportunity to align the two sides of the E-rate process — the commitment of funds and the disbursement of funds. This is a straight-forward, black and white, issue. The Commission can opt for either an applicant-friendly E-rate program or a penalty-driven E-rate program.

On the E-rate funds commitment side, the Commission has traditionally embraced an applicant-friendly approach embodied in its *Bishop Perry* and *Alaska Gateway* decisions. While paying mind to avoiding waste, fraud, and abuse, the FCC has established rules and procedures to have USAC warn applicants of an impending application deadline (e.g., previous years' "Form 470 but No Form 471" notices), or to automatically provide a second chance (e.g., FCC Form 486 Urgent Reminder Letter"). The FCC itself, when reviewing appeals and waivers involving commitments,

has, within reason, been flexible in interpreting or waiving rules with respect to Form 471 deadlines, contract signatures and dates, Form 470 28-day posting requirements, service delivery deadlines, and others.

On the E-rate funds disbursement side, however, the picture is different — and now much darker. From a procedural standpoint, the FCC has long condoned USAC’s invoice processing practices to quickly deny — or “pass zero” — invoices, often for minor and/or obvious reasons that could be easily remedied with outreach to the applicant or service provider. At the FCC level, prior to the recent *Ada School District* decision, there had been reasonable flexibility on the invoice deadline. This is no longer the case. This appears to be the unfortunate interpretation of an E-rate Modernization effort designed to improve and simplify E-rate. This is a step in the other direction.

E-MPA[®] understands and agrees that committed, but unused, funds cannot simply languish uninvoiced. E-MPA[®] does not believe this is the intent of the SECA petition. To the contrary, we believe that SECA’s recommendation of a post-invoice 30-day deadline warning and extension provides a balanced opportunity for applicants and service providers to actually use E-rate funds to which they are entitled, and to do so without imperiling future E-rate funding projections. E-MPA[®] views such a disbursement mechanism as equivalent of the Form 486 notice on the commitment side of the equation.

Without such a safety procedure, the FCC will have essentially established a sacrosanct deadline preventing many applicants from accessing authorized funding for which so much work has already been done on the application side. Some flexibility on invoicing — and, most importantly, a warning — is needed to ensure applicant E-rate success.

In endorsing SECA's request, E-MPA[®] emphasizes that its focus is not on its own E-rate consulting businesses. As E-rate professionals, we understand and track E-rate deadlines carefully. Although some flexibility is welcome to meet unusual contingencies, it is most needed by those applicants — particularly the smaller schools and libraries — for whom E-rate is but one of many responsibilities.

E-MPA[®] strongly encourages the Commission to adopt a Notice of Rulemaking, as suggested by SECA, to provide equal flexibility to E-rate applicants and service providers for both commitments and disbursements.

Respectfully Submitted by:



Melinda A. Van Patten

President

E-rate Management Professionals Association, Inc.